

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Pender
LEONITUS JABIR BEY,
Plaintiff,

C.A. NO.: 19-10219- PBS

9:52 am
v.

DAVID PENDER,
Defendant

**DEFENDANT'S MOTION FOR JUDGMENT
AS A MATTER OF LAW (F.R.C.P. 50(a))
AT THE CLOSE OF ALL THE EVIDENCE
(DIRECTED VERDICT)**

7/29/21 Demd.
Now comes the defendant at the close of all the evidence and respectfully moves the court to enter judgment for the defendant as a matter of law because the plaintiff has failed to present sufficient evidence on the remaining claim of 42 U.S.C. § 1983 for a violation of his Fourth Amendment right to be free from the use of excessive force.

The excessive force claim is the only claim remaining after the summary judgment Memorandum and Order of March 30, 2021.

The evidence at trial indicates that the defendant did not use excessive force but that the force used was reasonable in response to the resisting arrest by the plaintiff and assault by both the plaintiff and the plaintiff's auto passenger. Defendant Pender used the force necessary to protect himself. The plaintiff has not introduced sufficient evidence that the defendant's conduct was intentional or unjustified.

The plaintiff has not introduced evidence that he was denied a clearly established constitutional right. In order for the right to be clearly established for the purposes of qualified immunity the contour of the right must be sufficiently clear that a reasonable officer would